

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Firebaugh, et al. Analyst: Marion Mann DeJong Bill Number: AB 923

Related Bills: See Prior Analysis Telephone: 845-6979 Amended Date: 09/11/2003

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Employer Provided Health Coverage Credit/Farmworkers/FTB Report to Legislature
Annually Regarding Utilization of Credits

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous
analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the
previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSES OF BILL AS AMENDED

X JUNE 4, 2003, STILL APPLIES.

OTHER - See comments below.

SUMMARY

This bill would create a credit for employers that provide health care coverage for their agricultural employees. The credit would be allocated from revenue raised by repealing certain sales tax exemptions for taxpayers other than those engaged in certain agricultural activities with gross receipts of less than \$250,000.

SUMMARY OF AMENDMENTS

The September 11, 2003, amendments modified the definition of "qualified health care coverage" to reflect the proposed minimum health care requirements of the Health Insurance Act of 2003 proposed by SB 2 (Burton, 2003/04). The amendments also changed the sales tax exemption to apply to a "qualified person" as defined by using specified Standard Industrial Classification (SIC) Codes and gross receipt limits rather than the defined term "small farmers."

Except for the "This Bill" discussion, the department's analysis of the bill as amended June 4, 2003, still applies. A new "This Bill" discussion is provided. In addition, the "Implementation Considerations" from the prior analysis are reiterated for convenience. The Board position remains pending.

Board Position:

<u> </u> S	<u> </u> NA	<u> </u> NP
<u> </u> SA	<u> </u> O	<u> </u> NAR
<u> </u> N	<u> </u> OUA	<u> X</u> PENDING

Legislative Director

Date

Brian Putler

9/22/03

ANALYSIS

THIS BILL

This bill would repeal the sales tax exemptions on diesel fuel, racehorse breeding stock, and farm equipment for all taxpayers except those engaged in certain agricultural activities (SIC Codes 0111 to 0291) with gross receipts of less than \$250,000. Revenue raised from repealing these sales tax exemptions, plus the Employment Development Department's (EDD's) costs to administer the program, would be used to provide a tax credit allocated by EDD to employers that provide health care coverage to their agricultural employees. The Board of Equalization would estimate the amount of revenue raised annually and inform EDD of that amount so that a credit in that amount, plus EDD's cost to administer the program, can be allocated to taxpayers in the form of a franchise or income tax credit.

To be eligible for the credit, the taxpayer must either employ agricultural employees directly or be a labor contractor that employs agricultural employees for use by farmers and:

- Provide those employees with health care coverage and pay at least 80% of the cost of that coverage.
- Apply to the EDD for the credit by January 31 following the end of the calendar year.

The health care coverage would mean any of the following:

1. Any health care coverage that meets the minimum requirements of the Knox-Keene Health Care Services Plan Act of 1975 (Health and Safety Code Section 1340).
2. A group health insurance policy (as defined in subdivision (b) of Section 106 of the Insurance Code) that covers hospital, surgical, and medical care expenses, provided the maximum out-of-pocket costs for insured's do not exceed the maximum out-of-pocket costs for enrollees of health care service plans providing benefits under a preferred provider organization policy. For the purposes of this credit, a group health insurance policy shall not include:
 - Medicare supplement, vision-only, dental-only, and Champus-supplement insurance, or
 - Hospital indemnity, accident-only, and specified disease insurance that pays benefits on a fixed benefit, cash-payment-only basis.
3. Any Taft-Hartley health and welfare fund or any other lawful collective bargaining agreement that provides for health and welfare coverage for collective bargaining unit or other covered employees.
4. Any employer sponsored group health plan meeting the requirements of the federal Employee Retirement Income Security Act of 1974, provided it meets the benefits required under 1 or 2.

EDD would do all of the following:

- Determine the amount of allocated credit for each taxpayer who applied by multiplying the revenue raised by repealing the sales tax exemptions plus EDD's costs to administer the credit by a ratio of the amount the taxpayer paid for health care coverage for agricultural employees and their dependents to the total amount all taxpayers who applied for the credit paid for health care coverage.
- Provide written notification of the credit amount to each taxpayer by February 28th of each calendar year.
- Provide an annual list to the Franchise Tax Board (FTB), preferably on a computer readable form.

Unused credit amounts could be carried forward for six years. Fraudulent credit claims would be punishable by a criminal penalty of up to one year in jail and a fine of up to \$60,000.

EDD would be allowed to charge each taxpayer applying for the credit a fee to cover the costs of administering the credit.

FTB and EDD would report annually to the Legislature regarding the utilization of this tax credit.

IMPLEMENTATION CONSIDERATIONS

Since EDD would allocate the credit among taxpayers, implementation of the credit would not significantly impact the department. Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update. In addition, this bill would require an annual report to the Legislature.

Department staff has identified concerns regarding the criminal penalty for fraudulent credit claims. Since this penalty is based upon the criminal penalty for tax evasion administered by FTB, it appears that FTB is to assess the penalty. However, EDD would have the information required for determining whether a penalty is warranted. Amendments are needed to clarify how the penalty is to be implemented and which department is responsible for assessing the penalty and resolving any disputes arising from its assessment.

LEGISLATIVE STAFF CONTACT

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